

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN WAITE, etc., et al.,

Plaintiffs,

-against-

19-cv-1091 (LAK)

UMG RECORDINGS, INC., a Delaware
corporation doing business as Universal Music
Group, and DOES 1 through 10,

Defendants.
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ORDER

LEWIS A. KAPLAN, *District Judge*.

This case now is scheduled for trial before a jury commencing on November 9, 2020. Dkt. 65. As things now stand, all jury trials in this district have been suspended pending further order of the Court in consequence of the COVID-19 pandemic. When it becomes possible to resume jury trials safely in the district, criminal cases are likely to have priority for use of those relatively small courtrooms where jury trials could be conducted consistent with the protection of jurors and trial participants. Accordingly, it may not be possible to try this case before a jury on the present schedule, at least in the conventional matter.

Counsel shall meet and confer with a view to arriving at agreement on a proposal for the trial of this case in a manner that would be consistent with social distancing and other necessary precautions. Among the questions to be considered should be:

1. It is likely that a non-jury trial could be conducted sooner than a jury trial. Are the parties willing to try the case to the bench without a jury? If they are, the Court shall be so informed. If either or both is not, the Court should be informed only that the parties have not unanimously agreed to waive jury trial without disclosing which party or parties is unwilling to do so.

2. If the trial is to be by jury, can the parties agree on trying the case to a jury of six and, if any jurors are excused during the trial, to accept either a unanimous verdict or a less than unanimous verdict of whatever jurors remain?

3. Can the parties agree that the case will be tried over some digital/electronic platform with witnesses, counsel, and the court at remote locations? If so, can the parties agree that any jurors too would participate from remote locations? What platform would the parties propose?

4. Regardless of whether there is a jury or bench trial, which witnesses can testify remotely?

No doubt other issues or suggestions may occur to counsel.

Counsel shall advise the Court by joint letter on or before July 31, 2020 of their views on these and any other relevant issues. The Court appreciates counsel's attention to these matters and welcomes creative suggestions.

SO ORDERED.

Dated: July 1, 2020

A handwritten signature in black ink, appearing to read "Lewis A. Kaplan", is written over a horizontal line.

Lewis A. Kaplan
United States District Judge